

Amendment dated November 7, 2003

Reply to Office Action of August 8, 2003

REMARKS/ARGUMENTS

Applicant thanks the Examiner for taking the time to discuss the subject application with the undersigned. Claims 1-20 remain in the subject application. Claims 1 and 17 are amended, as recited hereinabove.

Claims 1, 5-13 and 17-19 have been rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Vargo et al. (6,356,545). Claims 1 and 17, as amended hereinabove, are believed to be patentable over Vargo et al. It is therefore also believed that all claims depending therefrom are necessarily patentable over Vargo et al. Reconsideration and allowance of claims 1, 5-13 and 17-19 is hereby respectfully requested.

As discussed telephonically, while Vargo et al. discloses dynamic packet characteristics, such as the encoding, in Vargo et al., the transmitter appears to use a particular type of coding algorithm to be employed in each packet and each packet carries such information and the receiver then utilizes the same coding algorithm. [See Vargo et al., col. 7, lines 22-26]. However, Vargo et al., does not disclose negotiating codec algorithms and certainly not renegotiating codec algorithms during communication and continuing to renegotiate, as recited in the claimed invention, during communication. Vargo et al. does not appear to disclose negotiation of its transmitter and receiver.

Accordingly, it is submitted that independent claims 1, and 17 are patentable over Vargo et al. Additionally, all claims depending therefrom are also necessarily patentable over Vargo et al. Reconsideration and allowance of claims 1, 5-13 and 17-19 is hereby respectfully requested.

Claims 2-4 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Vargo et al. (U.S. Patent No. 6,356,545). It is believed that this rejection is now moot in light of the above-recited amended claim 1 from which claims 2-4 depend. However, it should be noted that Applicant respectfully disagrees with the "switching initiated by a user ... are well known in the art such a TV remote controller ..." being combined with Vargo et al, if this is indeed what is suggested in the office action. While the art of TV remote controller is well known, there is absolutely no suggestion by Vargo et al. of combining its teachings with such art. The teachings of Vargo et al. and that of a TV remote controller are worlds apart and their combination is strongly objected thereto, as in S.N. 09/346,884

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hindsight, it may be apparent that to combine the teachings of Vargo et al. and a TV remote controller is obvious but such hindsight analysis, is obviously improper. Furthermore, there is no evidence or citing offered of such combination and certainly the same is not suggested, hinted at or taught by Vargo et al. Reconsideration and allowance of claims 2-4 is hereby respectfully requested.

Claims 14-16 and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster et al. (U.S. Patent No. 6,483,600) in view of Blomfield-Brown (U.S. Patent No. 5,625,678). Hereinafter, referred to as Schuster et al. and Blomfield-Brown et al.

Schuster et al. does not teach or disclose transmission of both voice and fax signals, as claimed in the amended claim 14. For example, Schuster et al. does not teach "a DSP module for carrying a user-initiated telephone conversation ..." In fact, system 10 of Schuster et al. is a "data network facsimile system" and no disclosure is found of the combination of voice and fax. Blomfield-Brown et al. discloses a method and system for allowing multiple application programs to communicate in the context of a switched voice and data communication (see Blomfield-Brown et al.: Abstract). This is not the teachings of the claimed invention as the latter is a "router device for use in a communication system ..."

The combination of Schuster et al. and Blomfield-Brown et al. is objected thereto as there is no teaching, suggestion or hint of one by the other.

It is therefore believed that claim 14 is patentable over Schuster et al. in view of Blomfield-Brown et al. Claims 15 and 16 depend from claim 14 and claim 20 depends from claim 17, and such, are believed to be patentable. Reconsideration and allowance of claims 14-16 and claim 20 is hereby requested.

Reconsideration and allowance of claims 1-20 is hereby respectfully requested. Applicants submit that the subject application is now in condition for allowance and an early notice thereof is respectfully requested. Should any further amendment be required prior to passing the application to issue, the Examiner is respectfully invited to contact the

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undersigned by telephone at the number set out below.

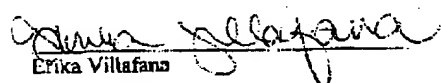
Respectfully submitted,
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I hereby certify that this correspondence with all attachments is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Two Pct Amendment, Commissioner for Patents, P.O. Box 1450, Arlington VA 22213-1450 on November 7, 2003 by Erika Villafana


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